

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 733

Introduced by Senator Price

February 18, 2011

An act to amend Section 185033 of, *and to add Section 185034.4 to*, the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

SB 733, as amended, Price. High-speed rail: business plan: contracts: small business participation.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. Under federal law, funding is made available for allocation nationally to high-speed rail and other related projects. Existing law requires the authority to prepare, publish, adopt, and submit to the Legislature a business plan containing specified elements beginning January 1, 2012, and every 2 years thereafter.

This bill would require the authority, in awarding contracts for the construction of the high-speed rail system with state or federal funds, to develop a strategy in conjunction with the Employment Development Department to ensure that at least 25% of the project workforce used at each authority worksite is from the local workforce, and to report on that strategy in the business plan to be submitted on January 1, 2012,

or as an addendum to that plan to be submitted as soon as possible after that date.

This bill would *also* require the authority to include in ~~the that~~ business plan ~~to be submitted on January 1, 2012, or as an addendum to that plan to be submitted as soon as possible after that date,~~ a strategy for ensuring the participation of *California-certified* ~~small-business enterprises~~ *businesses* in contracts awarded by the authority with state or federal funds during all phases of the project.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 185033 of the Public Utilities Code is
2 amended to read:
3 185033. (a) The authority shall prepare, publish, adopt, and
4 submit to the Legislature, not later than January 1, 2012, and every
5 two years thereafter, a business plan. At least 60 days prior to the
6 publication of the plan, the authority shall publish a draft business
7 plan for public review and comment. The draft plan shall also be
8 submitted to the Senate Committee on Transportation and Housing,
9 the Assembly Committee on Transportation, the Senate Committee
10 on Budget and Fiscal Review, and the Assembly Committee on
11 Budget. The business plan shall identify all of the following: the
12 type of service the authority anticipates it will develop, such as
13 local, express, commuter, regional, or interregional; a description
14 of the primary benefits the system will provide; a forecast of the
15 anticipated patronage, operating and maintenance costs, and capital
16 costs for the system; an estimate and description of the total
17 anticipated federal, state, local, and other funds the authority
18 intends to access to fund the construction and operation of the
19 system; and the proposed chronology for the construction of the
20 eligible corridors of the statewide high-speed train system. The
21 business plan shall also include a discussion of all reasonably
22 foreseeable risks the project may encounter, including, but not
23 limited to, risks associated with the project's finances, patronage,
24 right-of-way acquisition, environmental clearances, construction,
25 equipment, and technology, and other risks associated with the
26 project's development. The plan shall describe the authority's

1 strategies, processes, or other actions it intends to utilize to manage
2 those risks.

3 (b) (1) In addition to the requirements of subdivision (a), the
4 business plan shall include, but need not be limited to, all of the
5 following elements:

6 (A) Using the most recent patronage forecast for the system,
7 develop a forecast of the expected patronage and service levels
8 for the Phase 1 corridor as identified in paragraph (2) of subdivision
9 (b) of Section 2704.04 of the Streets and Highways Code and by
10 each segment or combination of segments for which a project level
11 environmental analysis is being prepared for Phase 1. The forecast
12 shall assume a high, medium, and low level of patronage and a
13 realistic operating planning scenario for each level of service.
14 Alternative fare structures shall be considered when determining
15 the level of patronage.

16 (B) Based on the patronage forecast in subparagraph (A),
17 develop alternative financial pro formas for the different levels of
18 service, and identify the operating break-even points for each
19 alternative. Each pro forma shall assume the terms of subparagraph
20 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the
21 Streets and Highways Code.

22 (C) Identify the expected schedule for completing environmental
23 review, and initiating and completing construction for each segment
24 of Phase 1.

25 (D) Identify the source of federal, state, and local funds available
26 for the project that will augment funds from the bond act and the
27 level of confidence for obtaining each type of funding.

28 (E) Identify written agreements with public or private entities
29 to fund components of the high-speed rail system, including
30 stations and terminals, any impediments to the completion of the
31 system, such as the inability to gain access to existing railroad
32 rights-of-way.

33 (F) Identify alternative public-private development strategies
34 for the implementation of Phase 1.

35 (2) To the extent feasible, the business plan should draw upon
36 information and material developed according to other
37 requirements, including, but not limited to, the preappropriation
38 review process and the preexpenditure review process in the Safe,
39 Reliable High-Speed Passenger Train Bond Act for the 21st
40 Century pursuant to Section 2704.08 of the Streets and Highways

1 Code. The authority shall hold at least one public hearing on the
2 business plan and shall adopt the plan at a regularly scheduled
3 meeting. When adopting the plan, the authority shall take into
4 consideration comments from the public hearing and written
5 comments that it receives in that regard, and any hearings that the
6 Legislature may hold prior to adoption of the plan.

7 (c) In the business plan to be submitted on January 1, 2012, or
8 as an addendum to that plan to be submitted as soon as possible
9 after that date, the authority shall include a strategy for ensuring
10 the participation of ~~small business enterprises~~ *California-certified*
11 *small businesses* in contracts awarded by the authority with state
12 or federal funds during all phases of the project. *The authority*
13 *shall also report in that business plan on its local workforce*
14 *strategy pursuant to Section 185034.4.*

15 SEC. 2. Section 185034.4 is added to the Public Utilities Code,
16 to read:

17 185034.4. (a) *The authority, in awarding contracts with state*
18 *or federal funds for the construction of the high-speed rail system,*
19 *shall work in conjunction with the Employment Development*
20 *Department to develop a strategy to ensure that at least 25 percent*
21 *of the project workforce used at each authority worksite is from*
22 *the local workforce.*

23 (b) *This section shall be construed so as not to conflict with*
24 *applicable federal laws, rules, or regulations. In the event that a*
25 *court or agency of competent jurisdiction holds that this section*
26 *or the application thereof to any person or under any*
27 *circumstances is invalid under any federal law, rule, or regulation,*
28 *this section shall be inoperative.*

29 (c) *As used in this section, the following terms have the following*
30 *meanings:*

31 (1) *“Local workforce” means residents of the local workforce*
32 *development area in which the worksite is located.*

33 (2) *“Local workforce development area” means one of 49 such*
34 *areas in the state with a local board designated by the Governor*
35 *pursuant to Section 14200 of the Unemployment Insurance Code.*

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2 CORRECTIONS:
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